

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

## **I. DISPUTE**

1. a. Whether there should be additional reimbursement of \$257.81 for date of service, 05/22/01.
- b. The request was received on 02/18/02.

## **II. EXHIBITS**

1. Requestor, Exhibit I:
  - a. TWCC 60
    1. HCFA-1500
    2. EOB/TWCC 62 forms/Medical Audit summary
  - b. Additional documentation requested on 06/11/02 and received on 06/12/02
    1. Position Statement
    2. HCFA-1500
    3. EOB/TWCC 62 forms/Medical Audit summary
    4. Medical Records
    5. Communication Records
    6. Example EOBs from other Insurance Carriers
  - c. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.

2. Respondent, Exhibit II:

Based on Commission Rule 133.307 (g) (4), the Division notified the insurance carrier Austin Representative of their copy of the provider's 14 day response on 06/20/02. The Respondent did not submit a response to the request. The "No Response Submitted" sheet is reflected in Exhibit II of the Commission's case file.

3. Notice of Additional Information submitted by Requestor is reflected as Exhibit III of the Commission's case file.

### III. PARTIES' POSITIONS

1. Requestor: Letter dated 10/30/01

“WE BILLED FOR THE PURCHASE OF A MIAMI J CERVICAL COLLAR AT A TOTAL COST OF \$400.00, WE WERE PAID \$196.92 LEAVING A BALANCE OF \$203.08, A PHILADELPHIA COLLAR AT \$195.00 AND WE WERE PAID LEAVING \$180.92 AND A SOFT CERVICAL COLLAR AT \$50.00 LEAVING A BALANCE OF \$40.65. THE PATIENT WAS PRESCRIBED THE EQUIPMENT BY HIS TREATING DOCTOR, \_\_\_, WHO THEN REFERRED HIM OVER TO OUR FACILITY. THESE COLLARS ARE UTILIZED TO RELIEVE PRESSURE ON THE NECK, PARTICULARLY WHEN IN A SLEEPING POSITION. IT IS MANDATORY THAT THE PATIENT WEAR THE PHILADELPHIA COLLAR AS DIRECTED FOLLOWING CERVICAL FUSION IN ORDER TO PROTECT THE HEALING CONSTRUCT [sic] IN THE CERVICAL SPINE. ATTACHED YOU WILL FIND A COPY OF OUR BILL AS WELL AS EXAMPLES OF PAYMENTS MADE BY OTHER CARRIERS FOR THE SAME EQUIPMENT. AT THIS TIME WE ASK THAT YOU REVIEW THE CLAIM FOR ADDITIONAL PAYMENT WITH INTEREST.”

2. Respondent: No response statement received.

### IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible for review is 05/22/01.
2. This decision is being written based on the documentation that was in the file at the time it was assigned to this Medical Dispute Resolution Officer.
3. Per the Requestor’s Table of Disputed Services, the Requestor billed the Carrier \$645.00 for supplies provided on the date of service in dispute above.
4. Per the Requestor’s Table of Disputed Services, the Carrier paid the Requestor \$387.19 for supplies provided on the date of service in dispute above.
5. The Carrier’s initial EOB, dated 06/21/01, denies any reimbursement as “UNNECESSARY MEDICAL TREATMENT OR SERVICE”.
6. The Provider requested reconsideration of the billed services on 09/14/01.
7. The Carrier’s second EOB, dated 09/19/01, issues a **partial** reimbursement in the amount of \$387.19 for these supplies but continues to deny any additional payment as, “M REDUCED TO FAIR AND REASONABLE”; therefore, making the “U” denial a moot point.

8. In their third EOB, dated 12/03/01, the Carrier denies any additional reimbursement as “M REDUCED TO FAIR AND REASONABLE”.
9. The amount in dispute is \$257.81 for services rendered on the date of service in dispute above.

## **V. RATIONALE**

Medical Review Division's rationale:

Per Rule 133.304 (i), “When the insurance carrier pays a health care provider for treatment(s) and/or service(s) for which the Commission has not established a maximum allowable reimbursement, the insurance carrier shall:

1. develop and consistently apply a methodology to determine fair and reasonable reimbursement amounts to ensure that similar procedures provided in similar circumstances receive similar reimbursement;
2. explain and document the method it used to calculate the rate of pay, and apply this method consistently;
3. reference its method in the claim file; and
4. explain and document in the claim file any deviation for an individual medical bill from its usual method in determining the rate of reimbursement.”

The response from the carrier shall include, per Rule 133.307 (j) (1) (F), “.... if the dispute involves health care for which the Commission has not established a maximum allowable reimbursement, documentation that discusses, demonstrates, and justifies that the amount the respondent paid is a fair and reasonable rate of reimbursement in accordance with Texas Labor Code 413.011 and §133.1 and 134.1 of this title;”

The Division notified the insurance carrier Austin Representative of their copy of additional information submitted by the Requestor on 06/20/02; however, no Carrier response to this request was noted in the dispute file.

The Medical Review Division has to determine, based on the parties’ submission of information, which has provided the more persuasive evidence of fair and reasonable. As the Requestor, the health care provider has the burden to provide documentation that “...discussed, demonstrates, and justifies that the payment being sought is fair and reasonable rate of reimbursement....” pursuant to TWCC Rule 133.307 (3) (g) (D). The Requestor has attached example EOBs, which does provide some evidence. The Carrier has supplied no methodology.

The law or rules are not specific in the amount of evidence that has to be submitted for a determination of fair and reasonable. The Medical Review Division has reviewed the file to determine which party has provided the most persuasive evidence. The Requestor has submitted some evidence to support their position that the amount billed is fair and reasonable. Therefore, additional reimbursement in the amount of **\$257.81** is recommended.

**REFERENCES:** The Texas Workers' Compensation Act & Rules: Sec 413.011 (d); Rule 133.304 (i); Rule 133.307 (g) (3) (D); and (j) (1) (F).

## **VI. ORDER**

Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Medical Review Division hereby ORDERS the Respondent to remit **\$257.81** plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this order.

This Order is hereby issued this 14th day of February 2003.

Denise Terry  
Medical Dispute Resolution Officer  
Medical Review Division

DT/dt